Essay on the Common Law of Ruanda

J. Vanhove

Preface

101 Beyond the eastern shore of Lake Kivu extends a country of
563 high hills called Ruanda. Nestling in banana groves, innumerable huts cling to the hillside, their smoke rising to the sky, and on the summits the brisk wind sways the pink grasses of the pastures where long-horned cattle graze. The exceptionally dense population con-
● [161] sists of about 3,000,000 Bahutu of Bantu origin who are dominated by some tens of thousands of Batutsi, Hamitic shepherds who have probably come down from the Ethiopian plateaus. Finally, here and there, Batwa pygmoids, potters and hunters, live apart from the other natives who despise them.

183 Europeans who first studied the customs of the country dis-
671 covered to their surprise that they showed a number of points in common with our feudalism. The tenure of land and of cattle as well as
[643] the dependence of persons are under a [4] strict regulation which the ruler of Ruanda has the absolute power to modify but which has, in fact, remained unchanged throughout the ages.

177 Our occupation has obviously had the effect of modifying the
183 customs in many ways. For example, we could not approve of the brutal evictions and attempts on life and liberty made in the name of the right of the strongest. Evangelization has also introduced into the heart of the native society notions of justice and gentleness which are very different from the natives' original conceptions. However, despite
177 the efforts of our civil servants and our missionaries to attack what is
183 most to be condemned in it, native customs still largely holds its
563 sway due to the influence of the great Batutsi chiefs, who are eager to maintain their authority intact, and also due to that of the sorcerers, toothsayers, rain makers, and many others, who attempt to maintain the traditional law by playing on the credulity and superstitious mind of the Banyarwanda [Banyaruanda] and thus protect their prestige and their revenues. In addition, while realizing the protection we give them in repressing arbitrary actions, the Bahutu submit to the changes we

Chapter 1

Survey of Land People (1)
(Cf. the map [colored in the original] at the end of the book.)

114 1. Part of this chapter is taken from a lecture which I gave at the 19th German Geographers' Conference in Strasbourg in the spring of 1914.

1. The Land Urundi

131 In the extreme west of German East Africa lies one of the regions of Africa least known until now: Urundi. To the north it borders on Ruanda, to the east on Ussuwi and Uha, to the south also on Uha, to the west on Lake Tanganyika and the Ruzizi River. Since Urundi has an area of almost 29,000 square kilometers, i.e., approximately twice that of the Kingdom of [161] Saxony, and since it has over one and a half million inhabitants (according to van der Burgt, around two and a half million), it deserves attention for this reason alone. However, although 648 it has been German territory for over 25 years, we know little about it. Because of the recalcitrance of its population, the government had almost completely closed off the area to travel from the outside, and until 1911 political influence was limited to the establishment of a station with a resident and a company of colonial troops in Usumbura on Lake Tanganyika. It was not until 1912 that the seat of government was moved on a trial basis to Gitega in the interior of the region.

648 Oskar Baumann in 1812 was the first European who 797 traveled through northern Urundi to the source of the Nile on the upper Ruvuvu. There followed then between 1896 and 1898 several military expeditions by colonial army officers, Ramsay, von Trotha, Langheld, von Langenn-Steinkeller, Fonck, and Dr. Kandt; and between 1896 and 1899 the Catholic Mission of

133 By far the largest part of the country is a tableland which
361 powerful erosion has dissected into innumerable long and short ridges with flattened tops and chains of hills with frequently deep and rather steep valley escarpments. The majority of the valleys are filled by papyrus swamps which can only be crossed in a few places. Hence it is not the valleys, as in our part of the world, but the high places that provide the most suitable settlement sites. The marshes in the valley bottoms, the hot stagnant air in the lowlands, the myriads of mosquitoes and gnats, and the valley slopes which in many places are very steep cause the people with their roads and settlements to resort to the free, airy plateaus and hill tops, while in most valleys the only fields are of such crops as require much moisture. In most areas of Urundi and Ruanda the valleys serve not to unite people but to separate them. In both regions the division of the people and the state into small communities is, therefore, determined by natural causes (see p. 89). For this reason also, the future opening up of the country by means of roads or railroads is rendered unusually difficult. The valleys in many parts of the eastern drier quartzite regions are much less swampy and less steep. There also, the surfaces of the plateau ridges and of the hill ranges are everywhere so stony and sterile due to weathered quartzite fragments (see Plate 2b) that the people avoid the high land and prefer to settle on the sides of valleys where the springs break out below the crevassed quartzite on the upper line of stratification of the almost impermeable argillite and where the argillaceous residual soil is more fertile and easier to till than the quartzite lying above.

This natural diversity among the areas is in itself an ex-
● 161 planation of why the population is rather unevenly distributed over the country.

The government estimates the number of natives in Urundi at one and a half to two million ("Die deutschen Schutzgebiete 1912-13," Amtliche Jahresberichte ["The German Protectorates 1912-13," Official Annual Reports], pp. 8-9). This large margin is an indication that official censuses in the individual areas have so far not been possible. Both here and in Ruanda only the drawing up of tax registers will some day

161 furnish more accurate figures. According to my own and other recent estimates, the figure of two million is too high; one and a half million is probably closer to the truth. However, a few missionaries, among them Father van der Burgt, have estimated even more than two million. [18] There are relatively fewer Batussi in Urundi than in Ruanda; they constitute
162 563 hardly five per cent and probably only two or three per cent of the total population, i.e., 40,000-50,000 in Urundi. For them, too, van der Burgt assumes a much higher percentage: 15-20 per cent as against only five per cent for the Batwa. Apart from the mass of native Bahutu, there were in 1912-13 still about 2,500 other Negroes (Wasuaheli, Wanjamwesi, Manjema, and others) in the country, and, in addition, one or two dozen Arabs, two or three dozen Indians, and approximately five dozen Whites, half of them Germans and about 20 Frenchmen and Frenchwomen (missionaries).

On the whole Urundi and Uha are not by any means as
161 densely populated as Ruanda which has 72 inhabitants per square kilometer. [Fig. 1 appears here in original text.] The official estimate for 1912-13 gives an average of 51 inhabitants per square kilometer for Urundi (or 68, if one puts the total population at two million). On the whole the density of population increases from east to west. In the west the valleys and the broad ridges of the peripheral mountains are most densely populated; hence they are almost entirely cleared of timber. There, there are an estimated 50 to 60 people per square kilometer or, in other words, a density of population approximately equal to that of Portugal. Any comparison with Germany with its 120 inhabitants per square kilometer would be inappropriate since the area of utilizable land is relatively much smaller in Urundi than in Germany due to the many swampy valleys and quartzite wastes. The most densely populated parts are the
161 133 areas of granite, crystalline schist, mica schist, amphibolites, diabases, etc., which comprise the more elevated western portion of Urundi where the rainfall is higher and which form fertile residual soils. Of the less elevated, large slate and

[Text continues on page 29]

161 quartzite areas adjoining to the east, the latter are the more
[133] sterile and, for this reason, less populated and cultivated. [19]
One observes the same phenomenon in Ruanda. In the more
[311] humid areas where bananas are grown, the banana plantations
cover large areas and thus give the illusion of a relatively dense
population, whereas in fact only a few huts are to be found in
them.

592 The Batussi and Bahutu families are rather rich in chil-
[842] dren, as in Ruanda. Individually the Batussi women are less
fertile than the Bahutu women, but in general there are seldom
fewer than three children in each family and in many cases
(among the Bahutu) between six and eight and correspondingly
more if the husband has several wives. Usually each married
couple lives with its children in a single hut. However, if
[595] there are many children or several wives, each mother lives
in a separate hut with her youngest children. Grandparents and
unmarried adults also have huts to themselves. Thus, there
are often between two and four residential huts and several huts
for grain and cattle in one kraal, or several fenced-in residential
huts plus outhouses are combined in one large homestead (see
Fig. 1).

361 The settlement pattern is that of individual establish-
ments, the fenced-in kraal, hamlet, courtyard (lugo, urugo).
Each homestead stands alone, surrounded by its fig trees and
its banana plantation if it is in the banana region (Plates
18, 21b). In most cases, however, there are several kraals
belonging to the extended family circle, situated next to each
other within calling distance so that village-like clusters
(ikisagara) are formed (see Fig. 2 and Plate 19a). Outside ex-
tend the fields. Of course, this is especially true for the
settlements of the Bahutu, for among the Batussi only the
poorest and lowest classes cultivate the fields. The kraals or
clusters of kraals belonging to the more prosperous Batussi are
scattered over the grassy pastures used by their cattle and sur-
rounded by high hedges of euphorbia and fig trees without
banana groves or fields. The distances between kraal clusters

361 and villages differ considerably depending on the quality of the soil. In the densely populated western districts one passes a cluster of homesteads every quarter or half hour, but in the thinly populated eastern districts one sometimes travels over an hour without seeing or passing a courtyard or a village.

368 One never sees many people outside, neither on the roads, near the grazing cattle, nor in the fields. Only close to the huts and within the kraals does one see people walking, standing, and squatting in groups. Old people 70 years old and older
145 are extremely rare. Very few seem to live beyond the age of 60, and this seems to be more often the case with the Batussi than with the Bahutu.

● 161 According to missionaries' reports, the population has been increasing during the last ten years or so, since the petty wars between the batwale and the princes and the invasions of the Banjaruanda and the Baha [Ha] have become rarer and less bloody. Only in the Tanganyika region which has been hit by
164 sleeping sickness has the population decreased considerably.
731 In the rest of Urundi the number of inhabitants is occasionally reduced considerably by smallpox epidemics or by crop failures, which are especially fatal to children, but such famines are relatively rare. In 1892, 1896, 1904-5 and 1908, rinderpest, bad harvests, and smallpox caused great devastations. In 1910 the distress resulting from drought in eastern Urundi was so great that the mission at Mujaga had to buy up large amounts of manioc and beans in Uha for their natives. Some travelers
181 claim that the majority of the Bahutu are waiting to be liberated from their conquerors. I cannot confirm this from my observations. [20] [Fig. 2 appears here in original text.] [21] The enthusiastic reception that the Bahutu gave at the time to the first European arriving there, Oskar Baumann in Urundi and Count Götzen in Ruanda, did indeed spring from the traditional hope for a great new conqueror who would usher in a golden age, but like all East African Bantu the Bahutu of Urundi and Ruanda do not in the least thirst for freedom. As has been mentioned above, they are submissive and dependent on others; they are happiest under firm authority and as accustomed to the discipline of their

[Text continues on page 31]

000 *Urundi Administration* 1925—and Bishop (!) Gorju in several works dealing with Urundi, where he has been Vicar Apostolic. It lies N.E. of Tang. lake, 2 to 4 degrees S. of the Equator.

Ethnical conditions

563 The Urundi as well as the two neighbouring sultanates of Ruanda and Buha consist of three ethnical groups: (1) the tall, fine-featured, cattle-grazing Batutsi, of Hamitic stock, who constitute a ruling class of some fifty thousand; (2) the middle-sized, rough-featured, land-tilling Bahutu, the largest and main body of a population of over one and a half million; (3) the Pygmy hunting and pot-making Batwa, a mere handful of some thousands of outcasts.

I am reasonably satisfied that these three ethnical groups mix together more than one is generally inclined to believe: they rather seem to become social strata. At any rate there are impoverished Batutsi who till the land, Bahutu who possess cattle, and landless Batwa are not a frequent occurrence to-day. Many impoverished Batutsi have been considered as Bahutu, rich Bahutu as Batutsi. The reasons and theory I brought home were elaborated by Dr. Gerkens and seem to prove that each of the groups is of mingled stock.

Geographical conditions

133 The Urundi is a high country. The region between mountain to the west and the steppe to the east is a plateau, 5,000 feet high, often more, and almost completely without ligneous vegetation, except in the near proximity of habitations. Rivers and brooks have dug themselves deep into this plateau and their valleys have made it a country of more or less important hills, each of them with its own name. The bottom of the valleys is covered with swamps where papyrus grows unchecked (for native agriculture had not been successful there). The stony, grassy hill-tops are merely meadow-land. The cultivated belt [311] normally spreads on the hill-side, with the fenced cabins of the land-tillers in the middle of fields and banana-plantations. Only persons of rank dwell in the higher region.

311 Typical of Urundi scenery as seen from a favourable observation point are the three belts running along one another: below, the ashy green of the papyrus; above, brownish stones and light-coloured grass, sometimes with the rugo of a chief or of his deputy; in between the deep shining green of the banana-trees. [61] Though the population often reaches 350 per square mile, the habitations of most land-tillers remain invisible amidst the banana-trees where they are hidden, and only at the time when meals are prepared does the peacefully ascending smoke betray their presence there.

[P. 13 (A)]

4: Maquet E-5 (1950-1951) 1954 FO42 Rundi FO42

been brought only during the past thirty years. The present Ruanda culture has lost the coherence that existed in pre-European days. Those who have become more closely associated with alien activity, and have therefore felt its influence more constantly, now share a culture made up in part of their ancestral way of life and in part of their interpretation of the Belgian variety of Western culture as it operates in a colonial situation. Even those who have not been brought into direct contact with whites feel that their old patterns of life are losing their validity. But that more or less hidden part of the old culture, consisting of basic assumptions on the relationships of man with the world and with other men, has suffered the least change. To be sure, the legends of the descent of the first Batutsi meet with more scepticism than in the past, but the fundamental beliefs that this story reflects are still profoundly embedded in the Ruanda ethos. Even when new institutions, based on assumptions conflicting with the earlier ones, are imposed under external pressure and adopted, the principles shaping the older institutions will subsist and, if participation in the new institutions is unchecked, these will be completely reinterpreted in accordance with the former premises. Some manifestations of the continuing existence of the ancient assumptions in the contemporary context will be considered here, but we shall be mainly concerned with the Ruanda world-view as it was at the beginning of this century.[1]

Ruanda is a highland country in East Africa lying in the region delimited by lakes Kivu, Victoria, and Tanganyika. Its area is 24,500 square kilometres; its population amounts to almost 2 million inhabitants, the highest density in Africa south of the Sahara. Three socio-'racial' castes are to be

[1] Much of the material used in this study was collected by the author during two years' work (1950–1) in Ruanda as a social anthropologist of the *Institut pour la Recherche Scientifique en Afrique Centrale* (I.R.S.A.C.). The author was very much helped in his field research by Dr. E. Fiouiet and Dr. G. De Clercq during their six-month course of training under his direction. Extensive and valuable information has been found in the published literature on Ruanda, especially studies by Father A. Arnoux, Abbé L. de Lacger, Abbé Alexis Kagame, the late Father A. Pagès, Mr. G. Sandrart, Father Schumacher, and Mr. J. Vanhove. The author is also grateful to the Abbé Kagame for having placed at his disposal some of his manuscripts. In formulating the conceptual and theoretical scheme used in this paper, the author has relied considerably on the teaching and works of Professor Clyde Kluckhohn of Harvard University. He is immensely indebted for his fundamental training in anthropology to the teaching staff of London University and particularly to Professor Daryll Forde. Mr. Lawrence Oschinsky has kindly corrected the manuscript. A short bibliography is given at the end, but it has not been felt necessary to document this study at every point, nor indeed was this possible, since it was written in the field with the use of a very restricted library.

This is an essay in the etymological meaning of the word. If the underlying configurations of a culture constitute its most important part, since they provide a key to the interrelatedness of apparently unconnected phenomena and to the meaning of apparently incomprehensible behaviour, they are also the most elusive realities. They evade direct observation and, often, direct interrogation. The anthropologist, therefore, must be sure that his inferences are logically acceptable not only to his own mind but also to the minds of the participants in the culture he studies. All this requires a thorough knowledge of the overt aspects of a culture and a long familiarity with them. The author is painfully aware that he has not gone very deeply into the ethos of Ruanda. This is only an attempt at a synthesis of the results so far obtained in researches which are still proceeding.

133 These two torrents have their source in the southwestern part of Ruanda. Their headwaters flow impetuously on a bed littered with rocks and pebbles.

Among the many subsidiaries of the Nyabarongo, let us mention in alphabetic order: the Base, Mukungwa (which comes out of Lake Ruhondo), Nyabugogo, which serves as an outlet for Lake Mohazi, etc.

The Akanyaru, whose basin is less extensive, also originates in the southwest and combines its waters with those of the Nyabarongo at the level of theBugessera. /28/

After they join, these two rivers change their name to Kagera (1). Under this new name they enter the Victoria into which they

[103] 1. Kagera. This word comes from the verb kugera, "to deepen."

The Kagera slowly wanders through the plain, and its lazy waters overflow

[136] into large ponds and marshes infested with crocodiles and mosquitoes.

pour their yellow waters loaded with silt.

Lake Kivu receives only a small part of the waters of Ruanda. Its outlet is the Ruzizi River, which flows into /Lake/ Tanganyika after a tumultuous course of about 120 kilometers.

131 Ruanda, whose surface may be estimated at 30, 000 to 35, 000
● 161 square kilometers boasts a population that is believed to reach two million souls.

It is made up of three quite distinct ethnic groups: the Batutsi,
563 or Hamites, the Bahutu of the Bantu group, and the Batwa, or Negrillos (Pygmies).

The Batutsi, who are thought to be of Egyptian or Abyssinian
141 origin, (2) are tall in stature. Some measure as much as 2 or even

OBD 2. From an ethnological point of view the physical appearance of the Ethiopian people is an exception in

9:Maquet E-5 (1949-1951)1961 FO42 Rundi FO42

Ruanda, Burundi, Ha, Karagwe). It is not known where these pastoralists came from.

Because of cultural and physical similarities the Galla or Somali country of Southern Abyssinia has been advanced as their possible place of origin. As the invaders have completely adopted the Bantu language of the agriculturists, the lack of linguistic clues so important in such questions is a great setback to any historical reconstruction. It should be noted in this connexion that the use of the linguistic term 'Hamites' to denote Tutsi, who do not speak a Hamitic language at all, is unfortunate and misleading. Dr. Meinhard's suggestion of using a term not burdened with linguistic connotations such as 'Ethiopians' or 'Ethiopoids' should be considered.[11] The population movement which brought the invaders to Ruanda is probably at least four centuries old. The present ruler is traditionally the fortieth king of Ruanda. We know the names of thirty-nine predecessors, but it is possible that the list is incomplete. On the other hand it seems that the first nineteen are legendary figures. Taking account of this and assuming that a reign lasts about twenty years, we go back to the sixteenth century.[12]

As the Tutsi migration seems to have been gradual and peaceful, an infiltration rather than a conquest, it is probable that at the beginning their cattle grazed on the unoccupied grasslands. But the population increased as more Tutsi kept on entering the country and more land had to be tilled to feed them. Cattle were also increasing and the Hutu had to move from the most fertile soil, in the bottom of valleys, because during the dry season these places were the only ones where cattle could find fresh grass. This process must have been in operation for a few centuries to produce the situation as we know it now.

Statistics are not available for the 1900–10 period, with which this study is concerned, but we may from the present figures (with some modifications) get a fairly good idea of the situation at the beginning of this century. The population was estimated on 31 December 1949, to be 1,870,410 souls: in 1956, 2,374,136, which

[11] Cf. Meinhard, 1947a, p. 3.

[12] According to Meyer, 1913, the pastoral invasion took place in two ways. The first, at the beginning of this millenium reached the north-east of the Province; the second, in the fifteenth and sixteenth centuries brought them farther southward. According to Kagame and Delmas, the first Hamitic populations invaded the country in the eleventh and twelfth centuries. (Gouvernement du Ruanda-Urundi), (1956), p. 9.

9:Maquet E-5 (1949-1951) 1961 FO42 Rundi FO42

gives a density of 235·8 per square mile or 91·9 per square kilometre.[13] This density is among the highest in Africa, south of the Sahara.[14] What may we infer from these figures as regards the population at the beginning of this century? According to the available statistics for the last fifteen years, when the circumstances are favourable the yearly increase of Ruanda population may reach three per cent. This increased ratio could hardly have been maintained over the whole of the last fifty years, mainly because the 'favourable circumstances' refer to medical amenities, new hygienic practices and the reduction of famine. Such conditions were by no means prevalent when the Europeans occupied the country in 1899.[15] Even since 1935, however, events have not always been favourable, as for three years (1941–2–3) there was a decrease of population due to a severe scarcity of food. Consequently it seems safe to assume that during the decades preceding the European occupation, the population was already very dense. According to Captain Bethe, it numbered about 2,000,000 in 1899.[16] In 1907, Czekanowski estimated the Ruanda population at approximately 1,710,000.[17]

According to a detailed survey made by the Department of Agriculture, there are about 60,000 to 70,000 families (out of a total of about 380,000 families) more than can be adequately fed by the country.[18] There is also an excess of cattle. In 1950 there

[13] There is a census for the male and able-bodied adults who are taxpayers. To obtain the total number of the population (females, old people, and children) the number of taxpayers in each administrative district is multiplied by a certain coefficient which is determined in each case by a sample-census of a few hills.

[14] For comparative purposes, there are a few density figures for some African territories according to present political boundaries: Uganda: 52·8 per square mile; Tanganyika: 20·7; Belgian Congo: 12·9; Nigeria: 92·0; Sierra Leone: 66·5. All these figures, taken from Hailey, 1957, p. 143, refer to the years 1948-52.

[15] Captain Bethe, a German officer, obtained from the king in 1899 Ruanda's acceptance of the Imperial Government's protection. There was no treaty, only an oral agreement which was followed by a permanent occupation by the German authorities. The first Christian mission was established in 1900, at Isavi, by the White Fathers. Belgian troops took possession of Ruanda during the First World War in 1916. The Belgian occupation of Ruanda-Urundi was confirmed by the Orts-Milner Agreement in 1919. In 1924, Belgium agreed to administer Ruanda-Urundi under the supervision of the Permanent Mandates Commission of the League of Nations. After the Second World War, Ruanda-Urundi became a United Nations Organization Trusteeship Territory administered by Belgium. Cf. Jentgen, 1947, pp. 9-11, 83-9

[16] Quoted by Czekanowski, 1917, p. 109n. [17] See Czekanowski, 1917, p. 114.

[18] This study is based on an estimate of the optimum cultivated area needed by a family, the quality of the soil being taken into account. A similar method has been used in the case of cattle. Cf. Ministère des Colonies, 1951b, pp. 343-7.

9:Maquet E-5 (1949-1951) 1961 FO42 Rundi FO42

did not play an important part in the feudal system because there were no socially recognized ties between a client and his lord's lord. Feudality was not a ranking system in the same sense as were the political structures. Each lord had his personal following; he was not as such the representative of a higher authority.

To sum up, the political and clientage structures at the same time secured the economic exploitation of the Hutu and protected them against an exaggerated pressure which could have led to disaster for the upper caste.

(c) Delegation and centralization of political power

Before the European occupation the kingdom's population was already numerous, probably around 1,700,000 inhabitants. The orographic configuration of the country made communications rather difficult. In that non-literate culture, an efficient collection of tributes required almost a face to face acquaintance between the subject and his ruler. These circumstances necessitated a delegation of authority to many intermediary chiefs who would be the local representatives of the rulers.

But such an unavoidable system was very dangerous for the central government. Its subordinated agents having frequently authority over a rather numerous population which could provide them with abundant supplies (if nothing was sent to the court) could be tempted to isolate themselves completely from the capital and become independent. Such a course of action would have been facilitated by the military structure and the feudal system.

Some important chiefs were, indeed, authorized to raise an army. Moreover, any military chief whose army was encamped near the border, in a district far from the capital, could gain such ascendancy over his warriors as to win over their allegiance to himself.

The *buhake* was perhaps still more dangerous because, as in any feudal system, it created personal bonds of allegiance between the client and his lord. As such, that bond of loyalty did not extend beyond the lord. One had to obey one's lord because he was one's lord and not because he was a mwami's representative. This is why any feudal system has always been so dangerous for a central government. Independence and revolt against the king have been recurring events in the areas where a feudal system existed.

Ruanda rulers were able to check successfully these tendencies